No. 17-432

IN THE
Supreme Court of the United States

CHINA AGRITECH, INC.,
Petitioner,

v.

MICHAEL H. RESH, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

SUPPLEMENTAL JOINT APPENDIX

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February 21, 2018

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. 2:11-CV-1331 RGK (PJWx)
(CLASS ACTION)

THEODORE E. DEAN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

No. 2:11-CV-1414 RGK (Ex)
(CLASS ACTION)

DEBORAH PEPPERDINE, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

No. 2:11-CV-2800 SVW (PJWx)
(CLASS ACTION)

EDUARDO CALCAGNO, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

[Filed May 16, 2011]

~~PROPOSED~~ ORDER GRANTING THE MOTION OF THE CHINA AGRITECH SHAREHOLDER GROUP FOR: (1) CONSOLIDATION, (2) APPOINTMENT OF LEAD PLAINTIFF, AND (3) APPROVAL OF SELECTION OF COUNSEL [DENIED]

Having considered the motion of Class Members Shi Yuan Jun, Giuliano and Adriana Biondi Lazzeretti, Yair Moskowitz, George Santos and Anne Marie Jones (collectively, the "China Agritech Shareholder Group" or "Movant") to: (1) consolidate the above-captioned related actions, (2) appoint Movant as Lead Plaintiff in the above-captioned action, and (3) appoint Saxena White P.A. and Glancy Binkow Goldberg LLP as Lead Counsel, and all papers and arguments submitted in support or opposition to the same, as well as all other documents on file with the Court, and good cause appearing therefor:

I. CONSOLIDATION OF THE RELATED ACTIONS

1. Pursuant to Fed. R. Civ. P. 42(a), the above-captioned actions are hereby consolidated and every pleading filed in the consolidated actions shall hereafter bear the following caption:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE CHINA AGRITECH, INC. SECURITIES LITIGATION	) Master File) No. 2:11-CV-1331

II. APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL

2. Movant has moved this Court to be appointed as Lead Plaintiff in the action and to approve the counsel it retained to be Lead Counsel and Local Counsel.

3. Having considered the provisions of § 21D(a)(3)(B) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B), the Court hereby determines that Movant is the most adequate plaintiff and satisfies the requirements of the PSLRA. The Court hereby appoints the China Agritech Shareholder Group as Lead Plaintiff to represent the interests of the class in the above-captioned action.

4. Pursuant to § 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), Movant has selected and retained the law firms of Saxena White P.A. and Glancy Binkow Goldberg LLP to serve as Lead Counsel. The Court approves Movant's selection of Lead Counsel for the above-captioned action.

5. Lead Counsel shall have the following responsibilities and duties, to be carried out either personally or through counsel whom Lead Counsel shall designate:

a. to coordinate the briefing and argument of any and all motions;

b. to coordinate the conduct of any and all discovery proceedings;

c. to coordinate the examination of any and all witnesses in depositions;

d. to coordinate the selection of counsel to act as spokesperson at all pretrial conferences;

e. to call meetings of the plaintiffs' counsel as they deem necessary and appropriate from time to time;

f. to coordinate all settlement negotiations with counsel for defendants;

g. to coordinate and direct the pretrial discovery proceedings and the preparation for trial and the trial of this matter and to delegate work responsibilities to selected counsel as may be required;

h. to coordinate the preparation and filings of all pleadings; and

i. to supervise all other matters concerning the prosecution or resolution of the Consolidated Actions.

6. No motion, discovery request, or other pretrial proceedings shall be initiated or filed by any plaintiffs without the approval of Lead Counsel, so as to prevent duplicative pleadings or discovery by plaintiffs. No settlement negotiations shall be conducted without the approval of the Lead Counsel.

7. Service upon any plaintiff of all pleadings in this action, except those specifically addressed to a plaintiff other than Lead Plaintiffs, shall be complete upon service of Lead Counsel.[*]

8. Lead Counsel shall be the contact between plaintiffs' counsel and defendants' counsel, as well as the spokespersons for all plaintiffs' counsel, and shall direct and coordinate the activities of plaintiffs' counsel. Lead Counsel shall be the contact between the Court and plaintiffs and their counsel.

[* Paragraphs 5 through 7 of this document (page 3 of the original proposed order) were inadvertently omitted from the filed order denying the motion. *Compare* Dist. Ct. Dkt. 4-1 (proposed order including page 3) *with* Dist. Ct. Dkt. 21 (omitting page 3). Those paragraphs are included here to ensure completeness of the record.]

III. NEWLY-FILED OR TRANSFERRED ORDERS

9. When a case that arises out of the subject matter of this action is hereinafter filed in this Court or transferred from another Court, the Clerk of this Court shall:

a. file a copy of this Order in the separate file for such action;

b. mail a copy of this Order to the attorneys for the plaintiff(s) in the newly filed or transferred case and to any new defendant(s) in the newly filed or transferred case; and

c. make the appropriate entry in the docket for this action.

10. Each new ease which arises out of the subject matter of the above-captioned action that is filed in this Court or transferred to this Court shall be consolidated with this action and this Order shall apply thereto, unless a party objecting to this Order or any provision of this Order shall, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, file an application for relief from this Order or any provision herein and this Court deems it appropriate to grant such application.

11. During the pendency of this litigation, or until further order of this Court, the parties shall take reasonable steps to preserve all documents within their possession, custody or control, including computer-generated and stored information and materials such as computerized data and electronic mail, containing information that is relevant to or which may lead to the discovery of information relevant to the subject matter of the pending litigation.

IT IS SO ORDERED.

DATED: MAY 16, 2011

[Handwritten:] Denied without prejudice to be determined at the time of certification

/s/ GARY KLAUSNER

THE HONORABLE R. GARY KLAUSNER
UNITED STATES DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

No. 2:11-CV-1331 RGK (PJWx)
(CLASS ACTION)

THEODORE E. DEAN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

No. 2:11-CV-1414 RGK (PJWx)
(CLASS ACTION)

DEBORAH PEPPERDINE, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

No. 2:11-CV-2800 SVW (JCx)
(CLASS ACTION)

EDUARDO CALCAGNO, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

[Filed May 16, 2011]

~~PROPOSED~~ ORDER CONSOLIDATING RELATED ACTIONS, APPOINTING LEAD PLAINTIFF AND LEAD COUNSEL [DENIED]

WHEREAS, the above-captioned securities class actions (the "Securities Class Actions") have been filed against defendants China Agritech, Inc., et al. (collectively "Defendants"), alleging claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder;

WHEREAS, Federal Rule of Civil Procedure 42(a) provides that a court may order all actions consolidated if they involve "common issues of law or fact." The Securities Class Actions involve common legal and factual issues; thus, efficiency and consistency will result from their consolidation;

WHEREAS, pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. § 78u-4(a)(3)(A)(i), on February 11, 2011, the plaintiff in the first-filed action caused notice to be issued to potential class members of the action and informed them of their right to move to serve as lead plaintiff within 60 days of the date of the issuance of said notice;

WHEREAS, on April 12, 2011 Slava Vanous, Clair Harpster, and Randolph Daniels-Kolin ("Movant" or the "Vanous Group") timely moved the Court to consolidate the Securities Class Actions, for appointment as lead plaintiff and to approve their selection of the Rosen Law Firm, P.A. as lead counsel;

WHEREAS, the PSLRA, provides, *inter alia*, that the most-adequate plaintiff to serve as lead plaintiff is the person or group of persons that has either filed a complaint or has made a motion in response to a

notice, and has the largest financial interest in the relief sought by the Class and satisfied the pertinent requirements of Fed. R. Civ. P. 23;

WHEREAS, the Court finding that the Vanous Group has the largest financial interest in this action and *prima facie* satisfies the typicality and adequacy requirements of Fed. R. Civ. P. 23. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I); and

IT IS HEREBY ORDERED THAT:

CONSOLIDATION OF SECURITIES CLASS ACTIONS

1. The Securities Class Actions are consolidated for all purposes including, but not limited to, discovery, pretrial proceedings and trial pursuant to Fed. R. Civ. P. 42(a).

MASTER DOCKET AND CAPTION

2. The docket in case number No. 2:11-CV-1331 RGK (PJWx) shall constitute the Master Docket for this action.

3. Every pleading filed in this consolidated action shall bear the following caption:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Master File No. 2:11-CV-1331 RGK (PJWx)

In re China Agritech, Inc. Securities Litigation	CLASS ACTION JUDGE: R. Gary Klausner
This Document Relates To:	

4. The file in Civil Action No. 2:11-CV-1331 RGK (PJWx) shall constitute a master file for every action in the consolidated action. When the document being filed pertains to all actions, the phrase "All Actions" shall appear immediately after the phrase "This Document Relates To: ". When a pleading applies to some, but not all, of the actions, the document shall list, immediately after the phrase "This Document Relates To: ", the docket number for each individual action to which the document applies, along with the last name of the first-listed plaintiff in said action.

5. All Securities Class Actions subsequently filed in, or transferred to, this District shall be consolidated into this action. This Order shall apply to every such action, absent an order of the Court. If a party wishes to object to such consolidation, or to any other provisions of this Order, that party must file an application for relief from this Order within ten days after the date on which a copy of this Order is mailed to that party's counsel.

6. This Order is entered without prejudice to the rights of any party to apply for severance of any claim or action, with good cause shown.

APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL

7. Pursuant to Section 21D(a)(3)(B) of the Exchange Act, 15 U.S.C. § 78u-4(a)(3)(B), the Vanous Group is appointed Lead Plaintiff of the class, as the Vanous Group has the largest financial interest in this litigation and otherwise satisfies the requirements of Fed. R. Civ. P. 23.

7. Movant's choice of counsel is approved, and accordingly, the Rosen Law Firm, P.A. is appointed Lead Counsel.

8. Lead Counsel, after being appointed by the Court, shall manage the prosecution of this litigation. Lead Counsel are to avoid duplicative or unproductive activities and are hereby vested by the Court with the responsibilities that include, without limitation, the following: (1) to prepare all pleadings; (2) to direct and coordinate the briefing and arguing of motions in accordance with the schedules set by the orders and rules of this Court; (3) to initiate and direct discovery; (4) prepare the case for trial; and (5) to engage in settlement negotiations on behalf of Lead Plaintiff and the Class.

SO ORDERED:

DATED: MAY 16, 2011

[Handwritten:] Denied without prejudice to be determined at the time of certification

/s/ GARY KLAUSNER

Hon. R. Gary Klausner
U.S. District Judge

[Attorney Names & Addresses Omitted]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

No. 2:14-CV-05083-RGK-PJW

MICHAEL H. RESH, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

[Filed June 30, 2014]

PLAINTIFF'S NOTICE OF RELATED CASES AND NOTICE OF PENDENCY OF OTHER ACTIONS OR PROCEEDINGS [Civ.L.R. 83-1.3 & Civ.L.R. 83-1.4.2]

TO THE COURT AND ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

Pursuant to Civil Local Rule 83-1.3, Plaintiff Michael H. Resh ("Plaintiff") hereby gives notice of the following related actions formerly pending in the United States District Court for the Central District of California, Western Division, and one formerly pending after it had been transferred from the District Court of Delaware; and pursuant to Civil Local Rule 83-1.4.2, Plaintiff gives further notice of the pendency of another action presently being litigated in the Delaware Court of Chancery, as follows.

I. NOTICE OF RELATED CASES [Civ.L.R. 83-1.3]

Both actions identified below, previously pending in this district, sought to represent a class of China Agritech, Inc. ("CAGC") common stockholders of [sic] regarding violations of the federal securities laws against defendants, China Agritech, Inc. ("CAGC"), Yu Chang, Yau-Sing Tang, Gene Michael Bennett, Xiao Rong Teng, Ming Fang Zhu, Lun Zhang Dai, Hai Lin Zhang, Charles Law, and Zheng Anne Wang (collectively, the "Defendants"):

Case Name	Case No.	Filing Date
Dean v. China Agritech, et al. ("*Dean*");	CV 11-01331 RGK (PJWx)	02/02/2011
Smyth v. Yu Chang, et al. ("*Smyth*").	CV 13-03008 RGK (PJWx)	04/19/2012

The *Dean* Action originated here before the Honorable R. Gary Klausner until it was voluntarily dismissed by agreement of the parties. *See Dean* Action, Order Dismissing Case, Dkt. 205 (Sept. 20, 2012). Shortly thereafter, different plaintiffs commenced the *Smyth* Action in the District Court of Delaware (*See Smyth* Action, Dkt. 1) (Oct. 4, 2012). Defendant CAGC moved to transfer the action back to the Central District (Dkt. 18, Feb. 19, 2013), which the Delaware court granted on April 19, 2013, and entered an order confirming the transfer (Dkt. 42, Apr. 30, 2013). However, the *Smyth* Action, like the *Dean* Action, was voluntarily dismissed by mutual agreement of the parties. *See Smyth* Action, Order Grant'g Dismissal, Dkt. 136, Jan. 9, 2014.

A. Brief Factual Statement

As with this instant action, the plaintiffs in *Smyth* and *Dean* also alleged that the Defendants engaged in securities fraud in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, and sought the following on behalf of a proposed class of purchasers of the common stock of CAGC between November 12, 2009 and March 11, 2011 (the "Class"): (1) Determination that the action is a proper class action; (2) Awarding compensatory damages in favor of Plaintiff and the proposed Class against all Defendants for all damages to be sustained as a result of Defendants' wrongdoing; (3) Awarding Plaintiff and the proposed Class their reasonable attorneys' fees, costs and expenses; and (4) Any other relief the Court may deem just and proper.

B. Plaintiff's Action Should be Deemed Related and Assigned to Judge Klausner's Calendar [Civ.L.R. 83-1.4]

Plaintiff intends to successfully prosecute the claims asserted against the Defendants and protect the interests of the proposed Class who likewise sustained significant losses once CAGC's fraudulent actions were revealed to the market. For the foregoing reasons, Plaintiff believes that his action should be deemed related to the *Dean* and *Smyth* actions and assigned to Judge Klausner's calendar for all purposes.

II. NOTICE OF PENDENCY OF OTHER ACTIONS OR PROCEEDINGS [Civ.L.R. 83-1.4]

A. Parties and Counsel

1. Delaware Derivative Action

In re ChinaAgritech, Inc, S'holder Deriv. Litig., Case No. C.A. 7163-VCL, filed January 10, 2012, in

the Delaware Chancery Court ("Delaware Derivative Action").

Lead Derivative Plaintiff:	Albert Rish
Derivative Action Defs:	Yu Chang, Yau-Sing Tang, Xiao Rong Teng, Gene Michael Bennett, Ming Fang Zhu, Zheng Anne Wang, Charles Law, Lun Zhang Dai, Xuenong Zhang, Kai Wai Sim, Hai Lin Zhang, and Nominal Defendant China Agritech Inc.

The names, addresses, and phone numbers of the attorneys in the Delaware Derivative Action are:

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2. California Superior Court Action

Gearing v. China Agritech, Inc., Case No. SC117290, filed June 5, 2012, in the Los Angeles County Superior Court (the "California State Court Action").

Plaintiffs: Thomas J. Gearing, the T.J.G. Private Annuity Trust, and Rosemary Gearing.

Defendants: China Agritech, Inc., Kabani and Company, Crowe Horwatch, CAI Investment Inc., Yu Chang, Yau-Sing Tang, Xiao Rong Teng, Gene Michael Bennett, Ming Fang Zhu, Zheng Anne Wang, Charles Law, Lun Zhang Dai,

Xuenong Zhang, Kai Wai Sim, Hai Lin Zhang, and Rodman & Renshaw LLC.

The names, addresses, and phone numbers of the attorneys in the California State Court Action are:

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B. Brief Factual Statements

1. Delaware Derivative Action

As with this instant action, the Delaware Derivative Action broadly contends that defendant China Agritech is a fraud, by virtue of, *inter alia*, Defendants' failure to use the proceeds from their public offering for the stated purpose and repeated failures to maintain effective internal controls that prevented the company from making public filings with the SEC and caused the stock's ultimate delisting such that defendants have breached their fiduciary duties, and seeks damages sustained as a result of such breaches of fiduciary duties. Therefore, under L.R. 83-1.4.2(e), this action involves all or a material part of the subject matter of the Derivative Action.

2. California State Court Action

Similarly, as with the instant action, the California Superior Court Action brought California state law claims for fraud, negligence, negligent misrepresentation and unjust enrichment based on allegations that plaintiffs purchased shares of China Agritech at an inflated price due to fraudulent records having been filed with the SEC due to Defendants' fraudulent conduct and enrichment at the expense of other investors. Therefore, under Civ.L.R. 83-1.4.2(e), this action involves all or a material part of the subject matter of the California Superior Court Action. Defendants attempted to remove the action to the Central District, but Judge Klausner remanded the action back to state court on July 16, 2012 (*See Gearing v. China Agritech, Inc.*, Case No. CV 12-5039-RGK (PJWx) (Dkt. 23)), and the case was eventually dismissed in its entirety on May 23, 2013. *See* Cal. Super. Ct. Action, Req. for Dismissal.

III. CONCLUSION

WHEREFORE, Plaintiff respectfully requests:

1. That upon filing of the Plaintiff's Complaint, the action be assigned to the calendar of the Honorable R. Gary Klausner, the Judge assigned to the low-numbered action, CV 13-03008 RGK (PJWx); and

2. That all subsequent related actions be related to the instant action and assigned to the Honorable R. Gary Klausner.

Dated: June 30, 2014

WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP

By: */s/ Betsy C. Manifold*
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Aronson Declaration Exhibit 4

LM Research

February 2011

China Agritech: A Scam

Based on our research, China Agritech, Inc. (listed on NASDAQ as CAGC) is not a currently functioning business that is manufacturing products. Instead it is, in our view, simply a vehicle for transferring shareholder wealth from outside investors into the pockets of the founders and inside management. Our price target of $2 is based on the cash currently reported on CAGC's books—$45.8 million—divided by the number of shares outstanding. The company's remaining business does not, we believe, exceed $7.5 million in revenue per year. If the overhead associated with maintaining a listed company is taken into account, there is no profit. Since we believe China Agritech has no valuable technology, intellectual property, customer relationships, or capital assets, there is no value to the company other than dissolution value.

Disclosure: Writers and contributors to this report have short positions in CAGC (and / or own options on the stock), and therefore stand to realize significant gains in the event that the price of the stock declines. Following publication of any report, we intend to continue transacting in the securities covered therein, and we may be long, short, or neutral at any time hereafter regardless of our initial recommendation. This is not an offer to sell

or a solicitation of an offer to buy any security, nor shall any security be offered or sold to any person, in any jurisdiction in which such offer would be unlawful under the securities laws of such jurisdiction. We have obtained all information contained herein and in reports from sources we believe to be accurate and reliable. However, such information is presented "as is," without warranty of any kind – whether express or implied.

Company: China Agritech Inc. (NASDAQ: CAGC)

Current Stock Price: $11.00

Target Price: $2.00

Current Market Capitalization: $230 million

Basic Argument: The Company's actual revenues are under $7.5 million and dwindling.

Summary

- China Agritech ("CAGC", "Agritech" or the "Company") is a $230 million company that purportedly manufactured and sold $119 million worth of "green" fertilizers throughout China in 2010. In reality, we believe Agritech's factories are currently all idle and only one out of its four factories produced anything at all in 2010.
- Despite having raised over $70 million in capital since 2005, Agritech appears to have acquired only several million dollars worth of capital equipment. By contrast, it has paid its two founders at least $4 million in rental fees and real estate purchases during that time.

- We have been unable to obtain even one sample of Agritech product, even from headquarters, nor have we found a single distributor or sales outlet.
- Companies Agritech claims as clients, such as the big state-owned fertilizer company Sinochem, deny having any contracts with Agritech. Sinochem has told us that it does not sell any Agritech products.
- Government officials in China told us that Agritech does not have a license to manufacture granular fertilizers, which the company claims are its largest product line.
- We visited each Agritech facility and found each one empty, idle, and without production equipment.
- Agritech's CFO has been involved in two listed companies before Agritech in which he personally collected seven-figure sums while the companies went to zero. Analysts have called these earlier companies "pump and dump" schemes.
- In early 2010, the U.S. Financial Industry Regulatory Authority (FINRA) lodged a formal inquiry with CAGC questioning insider share transactions.
- Our calls and emails to the company requesting clarification have gone unanswered.
- All evidence suggests that this company has never been a successful vendor of fertilizer and is currently fraudulent.

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China Agritech: A Company that barely exists

On January 21st, China Agritech Inc. (listed on the NASDAQ under the ticker CAGC) reported 2010 annual revenues of $119 million: up 56% from 2009 and well ahead of the $107 million average estimate. The share price rose 5%. As far as we can determine, however, this revenue number was invented out of thin air.

Factories are idle: After visiting Agritech's reported manufacturing facilities in Beijing, Anhui, Xinjiang, and Harbin, we found virtually no manufacturing underway. The single exception was the facility in Pinggu County on the outskirts of Beijing, where the plant was not in operation on the Friday when we visited but local people told us that it has sporadically produced some liquid fertilizer over the last year. Plants in Bengbu, Anhui (supposedly the largest), Harbin, and Xinjiang were completely shuttered.

Harbin plant for sale: The Harbin facility – supposedly a major manufacturing facility for the $100 million revenue business – whose name has never been officially changed in government documentation from "Pacific Dragon," had a sign hanging on the gates last summer reading "this factory is for sale." Although the company gives an adjacent address for its facility, which has a signboard reading "Harbin Agritech," the registration documents with the local Administration of Industry and Commerce (AIC) have not been updated (a serious regulatory violation in China).

"For Sale" sign on CAGC's factory in Heilongjiang. Photo taken in Fall 2010.

No contract with Sinochem: A January Agritech announcement states: "In May 2010, the Company signed a renewed contract supplying organic liquid compound fertilizers to Sinochem, China's largest fertilizer distributor. The sales contract is worth RMB 61 million (approximately $9 million) and the Company will also continue to supply Sinochem with organic granular compound fertilizer under another existing contract." But a manager with Sinochem told us that Sinochem has no contract with Agritech and in fact has never bought or sold organic liquid fertilizers.

No distribution centers: A $19 million raise managed by Rodman & Renshaw in 2010 was billed as funding for a proprietary distribution network, and last month, Agritech announced that it was ahead of schedule in setting up regional distribution centers. The company said it had established 21 such centers

in Henan and Jiangsu provinces. In reality, we could find none, whether online, through directory information, through calling the company itself, or asking other fertilizer companies. Here are the words of a manager of one of China's largest fertilizer distribution companies, which previously distributed product in Henan for China Green Agriculture (CGA):

"I have never heard of anybody besides ourselves in Henan Province who distributes liquid humic acid fertilizer. The sales volume for liquid humic acid-based fertilizers is insufficient, so China Green Agriculture's factory stopped selling in Henan this year. I don't know of another such distribution center in Henan, for another company; if there was one, I would be the first one to know."

Agritech not permitted to make granular fertilizer: Agritech claims that most of its sales volume now derives from granular compound fertilizers. But government officials familiar with the Agritech operation say that Agritech has not received a license to manufacture granular compound fertilizer and does not sell any.

Unable to buy the product: Although the company has announced 21 regional distribution centers, we have not been able to locate any. We attempted at some length to purchase at least one bottle of the Agritech product but were disappointed. Fertilizer distributors listed on a popular industry website did not carry Agritech product. We looked for the addresses of retail locations. Then we tried buying online via the popular site Taobao or an agricultural products site, with no luck. Then, we telephoned the company. We asked for retail locations, but the staff member who answered the phone said that they could only fill our order directly. We explained that

we wanted one bottle as a sample before making a bigger order. She said that the company is able to fulfill only wholesale orders. When we persisted, the staff member said that a distributor would be passing through our area, Beijing, the following week and would drop off a sample, but that did not happen. When we called the number for the "distributor" the following week, the phone was unanswered.

Fictional revenue: Through legal agents, we have received an analysis of audited CAGC revenues reported to the Chinese government for the year 2009 in every subsidiary we were able to trace—including the Beijing subsidiary, which is mysteriously unreported by the company. We were able to review CAGC's results from its companies in Anhui, Beijing, Heilongjiang, and Xinjiang. The branch company in Chongqing, we were told by government sources, does not keep a separate P&L but instead records its revenue through its parent company. We did not find a record of a Xinjiang branch company.

Gross revenue, profit and fixed assets reported to the government in these companies for 2009 was as follows:

Subsidiary Name	2009 Gross Revenue (RMB)	Profit (Loss) (RMB)	Fixed Asset Value (RMB)
Harbin Pacific Dragon Liquid Compound Fertilizer Co. Ltd.	580,000	(7,000)	1 million
Agritech Fertilizer Company (Beijing)	46.65 million	7.61 million	10.95 million
Anhui Agritech Agricultural Development Co. Ltd.	530,000	(94,000)	2.73 million

Xinjiang Agritech Agricultural Resources Co. Ltd.	3.82 million	(250,000)	20,000
Totals Reported to SAIC (in RMB)	**51.58 million**	**7.259 million**	**14.7 million**
Totals Reported to SAIC (in USD)	**$7.58 million**	**$1.067 million**	**$2.16 million**
Numbers reported to the SEC	**$76.13 million**	**$5.69 million**	**$5.98 million**
SEC figures as a multiple of SAIC	**10x higher**	**5x higher**	**3x higher**

In its Q3 2010 report, Agritech claims that it has 100,000 metric tons of production capacity in Anhui, 50,000 metric tons in Harbin, and 50,000 tons in Xinjiang. But a total value of US$3,000 in plant and equipment in Xinjiang would be insufficient to support 50,000 tons of production capacity. Indeed, when we visited the site of the Xinjiang plant, we found little more than a warehouse, shared with two other companies and demonstrating no activity.

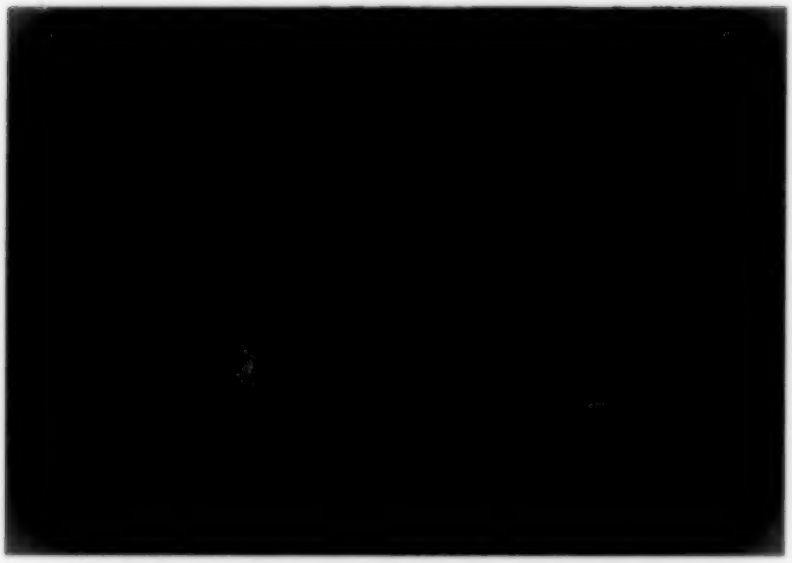
Our early attempts to find the Xinjiang factory were unsuccessful; there is no Agritech building at the company's legally registered address, and neither local government officials nor other companies in the high-tech park on the outskirts of Urumqi that is officially the site of the plant had ever heard of China Agritech. Finally, after searching the area and asking county officials, we were able to discover a facility bearing Agritech's name along with the names of two other companies, including the instruments company from which Agritech reportedly rents its facility. The facility, however, is idle, and we were told by local people that there is no production activity there.

The facility outside of Urumqi, which is idle, has Agritech's name but also the names of two other factories.

In Anhui, which Agritech calls its principal production facility, $400,000 worth of plant and equipment would seem slim for 100,000 tons of production capacity. We visited and found a small plant on a rutted road outside Bengbu, completely deserted.

The Agritech factory in Bengbu, Anhui,
January 2011

The Beijing plant is larger, but plant staff said in our presence that the facility was idle. The company would not allow us in, but we drove around the plant and saw a few people on site washing clothes but no evidence of production. Local government officials said that Agritech had not been able to obtain a production license for granular fertilizer and that it produced a very small volume of liquid fertilizer.



Agritech factory in Pinggu County, Beijing,
January 2011

We can only conclude that China Agritech has no product. Insiders are taking wealth from their shareholdings, since clearly they cannot derive wealth from company profits: in January alone, co-founder Teng Xiaorong took in about $260,000 from share sale proceeds, and in 2010 she sold over $1 million worth of stock in the company in addition to being issued new shares. Ms. Teng, who according to the company's 2010 annual proxy received $131,524 in direct cash compensation last year from CAGC, is a director of the company without an executive role.

In other words, as Agritech's actual revenue and profitability have dwindled to nothing, insiders have levered more money out of the company in shares sales. Added to that, insiders have reaped benefits from the sale and rental of real estate to Agritech.

No distribution centers: In May 2010, Agritech issued over 1.4 million new shares, raising just under $19 million for the construction of distribution centers. But we have not been able to find evidence that any distribution centers were actually built.

Mysterious suppliers: The companies that Agritech lists in its corporate materials as suppliers of raw materials, including Harbin Haiheng Chemical Distribution Co., Beijing Zhongxin Chemical Development Co., and Shenzhen Hongchou Technology Co., cannot be found in any directory under possible Chinese names that would correspond to the transliterated names or under the alphabetic names. No companies with names resembling these appear on industry lists of companies making humic acid or ingredients for "green" fertilizers. In fact, we speculate that the companies, if they ever existed, form an outdated supplier list, since at least three of Agritech's four factories are closed down.

For example, Agritech lists a supplier they call "Beijing Zhongxin Chemical Development Company." No such company exists, although there is one in Beijing called "Beijing Zhongxin Trading Company" listed on the Internet.[i] However, when we called the Beijing operator for directory assistance, she could find no such company listed in the active directory. We gave her the phone number listed on the Internet site (010-66067374) and asked her to do a "reverse look-up" of the number. She advised us that this is a number for a public phone booth, not a legitimate business phone number. All other searches for the suppliers mentioned in the 10K filing were futile.

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[i] http://www.701sou.com/index.php?lang=en&act=approximatch%20search&cat=1101&where=BEIJING&what=Wholesales&dAction=Search&refinement[ennbhd][1]=XiCheng+District&item=1&sort=distance

Agritech gives no information about customers or distributors in the two most recent 10Ks; we had to go back three years to find the names of any such companies. We decided to contact each of the companies mentioned in that three-year-old 10K. We could verify only one of the names – Sinochem, which had already told us they do not do business with Agritech. We were not able to find active businesses with active phone numbers for any of the other supposed customers listed by Agritech.

Financial anomalies

We have done some analysis of financial reports that Agritech has provided to its SAIC regulators in China and have determined the following:

1. The Harbin company, Pacific Dragon, has cumulative losses since 1994 of over 4 million RMB. None of its 2009 revenue was actually received but all was entered into "accounts receivable." Meanwhile, the debt-to-asset ratio is 98% and quick ratio is 61%. There were no sales expenses at all, only administrative expenses. In short, the 2009 audit report on CAGC's Harbin company shows a dead company.

2. The Anhui facility has generated losses every year since its establishment in 2006. By the end of 2009, it had lost 3.89 million RMB. The company had zero cash on its books.

3. The Xinjiang company reports zero fixed assets, meaning that it owns no equipment for production. Moreover, its 75% parent is the Anhui company, yet the Anhui company never reported making the required investment in the Xinjiang subsidiary.

4. The Beijing facility has licensed registered capital of $20 million, but by the end of 2009 had received 88 million RMB, so only more than half of the legally required amount. But despite the missing capital, half of the registered capital was still sitting in the account in cash in 2009, indicating that the company had not purchased much, if any, equipment.

Checkered history of humic acid

China's fertilizer market is very large: China consumes about 30% of the world's total fertilizer. But the vast majority of these fertilizers are nitrogen, phosphate, and potash chemical fertilizers. A large volume of natural fertilizers, derived from manure or various types of plant mulch, are still used by individual farmers but not commercialized. The market for specialty fertilizers like humic acid is small, fragmented, and suspicious of the commercial players that have come sprinting into the market since about 2006. Interviews with multinational fertilizer companies have confirmed to us that they do not see any market in China for humic acid, "fulvic acid," or other commercial organic fertilizers.

The national interest in humic acid—the key component of organic fertilizers made by CAGC, China Green Agriculture (CGA) and others—was prompted by Long Marcher Wang Zhen in the late 1970s. As a key influencer of the coal industry, agricultural policy, and the territory of Xinjiang (whose capture was largely attributed to his military skill), Wang Zhen formulated the idea that humic acid could be a high value-added product of coal for use in medicine and farming, and he directed funds to research and development of humic acid. That funding lasted for nearly two decades, until, in 1987, human trials of

humic acid for medicinal use reportedly led to disastrous results.[11] The government withdrew licensing authority from four provinces up to the national level.

A number of institutes under the former Ministry of Coal continued researching the use of humic acid in agriculture, but as the price of coal rose, starting around 2000, few institutes wanted to focus on coal byproducts. Individual researchers instead broke out of the government companies and labs to start up companies that would commercialize humic acid. Around 2004, technological improvements made it possible to extract more of the active ingredient, fulvic acid, and make it water-soluble. By the end of 2004, there were roughly 3,000 companies in China making humic acid or its derivative fertilizers. Sales were driven by speculative capital, and the market appears to have peaked in 2008.

Because no quality or active-ingredient standards have been applied to natural fertilizers like humic acid, the quality of product on the market has been extremely uneven, and acceptance by farmers has been cautious. By the accounts of many companies that distribute fertilizer, in 2009, the market dwindled, and now farmers show little interest in the humic acid fertilizers that had been billed as a wonder drug for crops.

To make matters worse, in 2009-2010, government environmental regulation gradually closed down some of the manufacturers and put a ban on expansion for the others. The production process uses

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[11] Qin Wande: "The Humic Acid Industry: Retrospective and Outlook," Coal Industry Ministry Publication 100713, 2004, courtesy of Wanfang Data.

around 10 tons of dusty, weathered coal each day that has to be crushed then liquefied in order to make 2,000 tons per year of humic acid. The manufacturing process, to some extent borrowed from Japanese 1960s technology, is outdated and dirty and makes an easy target for local governments that are trying to meet new environmental standards. China's largest manufacturer of humic acid, in Inner Mongolia, closed in 2010. High-quality humic acid has become difficult to obtain, with major manufacturers in Xinjiang and Shaanxi saying that they are refusing domestic orders since they intend to go into manufacturing end product instead. There is a 60-day wait for order fulfillment for the best overseas customers.[iii]

Low-revenue, low-profit business

We visited one of China's largest manufacturers of pure humic acid, a factory that produces 2,000 tons of humic acid per year. Based on the current requirement that humic acid fertilizers contain 4% of the active ingredient, and that the blended humic acid fertilizer can be combined with 30% inactive ingredients, the 2,000 tons of humic acid can yield about 75,000 tons of fertilizers. Currently earning 10,300 RMB per ton of humic acid—a price that has doubled in 12 months—this company estimates 20 million RMB in gross revenues for the current year, or about $3 million. The managers believe that, if they can use all their production for their own end product, they may be able to triple revenues. Even these optimistic estimates, however, would not bring the

[iii] Based on interviews in January with the Chinese Humic Acid Association, the State Environmental Protection Ministry in Beijing, and companies in humic acid production.

company anywhere close to the revenues claimed by Agritech.

Not permitted to expand production and concerned that its existing outdated equipment may have to be replaced, this company is now driving into the manufacture of blended fertilizers under its own brand, in order to extract more value from the existing facility.

Money-losing compounds

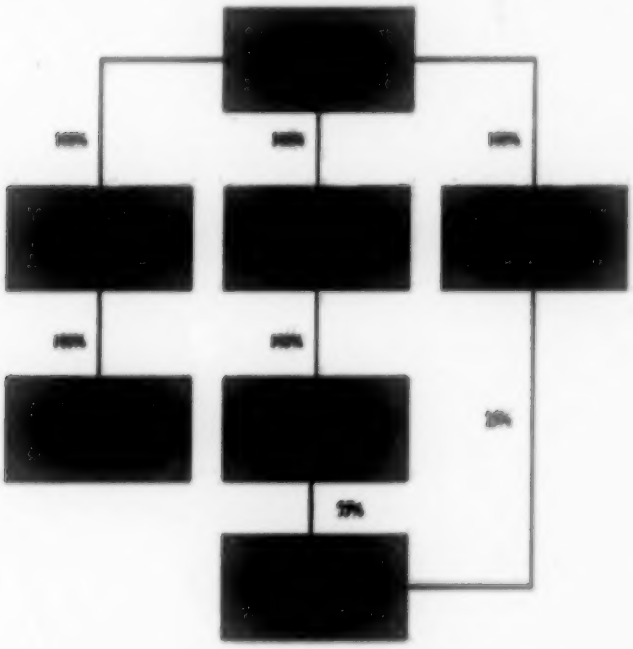
As market prospects for humic acid have dwindled, China Agritech, China Green Agriculture, and other producers of natural fertilizers have been driven into compounds, where the admixture of chemical fertilizers adds volume and market acceptance.

The problem is that compounds earn slim or negative margins. In 2008, the compound fertilizer production volume showed negative growth, as raw materials prices soared and farmers limited consumption to manage their costs. According to the China National Chemical Industry Information Center (CNCIC), China's production volume for compound fertilizers in 2008 was 200 million tons per year, while actual production was only 50 million tons. Product prices are essentially determined by the input costs plus 1-3%. That means manufacturers of compounds, if they produce at all, are doing so at razor-thin margins. Given that Agritech claims to produce 200,000 tons of granular compounds against 13,000 tons of higher-margin liquid compound fertilizers, a 28.5% EBITDA margin in 2009 should be viewed as a feat of magic by large competitors like Sinofert (HKG: 297). In 2009, Sinofert sold about 1.01 million tons of granular compounds. The company's EBITDA margin in 2009 was negative. Although only 20% of Sinofert's revenues is derived from its own manu-

facturing rather than agency sale of compounds, margins are similar on that side of the business.

Faced with industrial fragmentation and losses, China's government agencies in 2008-2009 issued policies designed to consolidate the industry, shutter high-cost manufacturers, and convey expansion capital and other benefits to large producers. Lower prices of nitrogen in 2009 bolstered production of compounds to about 55,000 tons, often at a small profit. But small producers and newcomers like Agritech were not able to obtain production licenses for compounds. Local government officials told us that Agritech had not obtained licenses for manufacturing compounds in any of its facilities and was restricted to making liquid compounds at the facility in Beijing. A government official in charge of regulating a part of Agritech's business and who was very familiar with the company estimated that, nationwide in 2010, Agritech did not have more than 50 million RMB in revenues.

Organizational Structure as of 12/31/09[iv]



Corporate Structure as of September 2010

By the end of November 2010, Agritech's 424B3 report filed with the SEC stated that the company had established several new subsidiaries: Diamond King Group (BVI), China Agritech Investments (Hong Kong), and Yinong Agricultural Co. Ltd. (PRC), as well as a new branch company in Xinjiang. Our checks against government records, however, found no companies involved in fertilizer with Chinese characters sounding like "Yi Nong" in the name whose parent company is named Agritech. The company of course could exist. But we have found a

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[iv] Note: Tailong is sometimes called "Pacific Dragon," the English translation of the name.

frustrating pattern with Agritech of announcing only English-language company names and choosing names that could represent dozens of different Chinese characters.

The November prospectus also indicates that China Tailong Holdings has established a new representative office in Beijing. Given that the headquarters building in Beijing was deserted other than by about five people when we visited, we are puzzled as to why the company would need an additional representative office. Representative offices are highly restricted as to the scope of their activities and pay onerous taxes if they are deemed to be engaging in commercial activities. The representative office structure is most appropriate for non-profit trade associations and NGOs.

Self-Dealing

Real estate

Real estate companies owned by founders Chang Yu (常玉) and/or Teng Xiaorong (滕晓荣) have earned at least $4 million from China Agritech since 2004. Since its reverse merger, Agritech has been renting certain of its Harbin and Beijing premises from its founders, with the rent cost totaling more than $500,000 annually over the past few years. The premises are mostly empty. Agritech has also purchased real estate from its founders.

The Harbin factory has a rental agreement with the founders through the founders' company Harbin Yinlong. Since July 2005, rent has been 3.6 million RMB per year. Based on that rate, CAGC has paid more than $2.5 million in rent to companies controlled by Chang Yu and Teng Xiaorong since becoming a public company.

In 2007, the company began paying Ms. Teng 492,000 RMB annually to rent its office space in Beijing. Last August, the rental agreement was terminated, and the company paid Ms. Teng $1.49 million for the 750 square meter office space. The price was within the range of comparable real estate in Beijing. However, our visits to the office suggested that China Agritech did not need nor was utilizing 750 square meters of office space.

Stock-Based Compensation

Over the past twelve months, at least 200,000 registered insider shares have been sold by Ms. Teng, CFO Gareth Tang, and officer Zhu Mingfang (Steve Zhu) for a value exceeding $2.5 million.

Company Background

Company founders Mr. Chang and Ms. Teng formed Pacific Dragon in Harbin in 1994 to manufacture liquid and granular organic and chemical fertilizers.

In 2003, Mr. Chang and Ms. Teng incorporated a shell in Hong Kong called China Tailong Holdings to hold the equity of Pacific Dragon, the Harbin manufacturing plant where the company then produced about 5,000 tons of liquid fertilizer. Tailong acquired a 90% interest, and a PRC company held by Ms. Teng and Mr. Chang, called Yinlong Industrial or "Silver Dragon," held 10%.

Basic Empire Corp. in 2002 was the shell of a Nevada-based mining company originally called Argyle Mining. In May 2004, Timothy Halter, the reverse-merger specialist who founded the "Halter USX Index," bought majority control of the company for $200,000. In February 2005, the company completed a reverse acquisition with a Hong Kong corporation that had been established by company

founders Mr. Chang Yu and Ms. Teng Xiaorong. On May 12, 2005, the company's name was changed to China Agritech. A private placement in June of that year preceded a January 2006 offering that raised $11 million.

In May 2009, Tailong agreed to acquire the 10% balance of Yinlong's interest in Pacific Dragon for $1 million in cash plus 1.745 million new shares for the two founders.

Executives, directors, and service companies

Gareth Yau-Sing Tang, CFO: Gareth Tang has a history of improper insider transactions. From 2003 to 2005, Tang was CFO of a small company quoted on Pink Sheets called China Cable and Communication Inc. (formerly CCCI.ob, now CCCI.pk). CCCI was a dubious venture, built around a cable TV system with 200,000 subscribers in the city of Baoding in Hebei Province. During his tenure as CFO, Mr. Tang took at least $1.5 million in share sale proceeds from the company and received shares worth more than $50,000 per month of his tenure. Mr. Tang's last stock sale came in September 2005, shortly before CCCI stopped reporting to the SEC and, for all intents and purposes, disappeared. The investor Isaac Silbermann, writing in Seeking Alpha, discussed Mr. Tang's earlier history as CEO of a Hong Kong-listed company called China Prosperity Holdings.[v] Essentially, Mr. Tang bought up cheap shares in a defunct Hong Kong-listed shell. Then a rumor that the company would receive the right to operate the first media joint venture on the mainland sent the

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[v] Isaac Silberman: "China Agritech: Questioning Management's Credibility," October 5, 2010, http://seekingalpha.com/article/228751-china-agritech-questioning-management-s-credibility-part-2

share price soaring. After heavy insider trading, the company announced that the venture had been aborted and did not disclose a reason.

Linda Lingxiao Dai, Vice President of Finance: Ms. Dai's previous position is listed as CFO of the China branch of American Yellowstone Power Co. But searches turn up no record of a company of that name in China or in the United States. The closest name that can be found in Chinese translates as Yellowstone Resources, but there is no record of Ms. Dai having been associated with that company.

Gene Michael Bennett, Director, Chairman of Audit Committee: Formerly a CPA with Grant Thornton, Gene Michael Bennett is or has been a director of China Shen Zhou Mining & Resources (SHZ), China Pharma Holdings (CPHI), China Fire & Security Group, Inc. (CFSG), and China Shenghuo Pharmaceutical Holdings, Inc. (KUN).

- KUN recently agreed to settle with shareholders who had filed a lawsuit for damages due to false and misleading statements by the company.[vi]
- China Fire & Security Group Inc. is a questionable business that is associated with a group of middlemen and service companies that have been connected in the past to stock manipulation.[vii]

[vi] Shareholders Foundation: http://shareholdersfoundation.com/case/china-shenghuo-pharmaceutical-holdings-agrees-settlement-shareholder-class-action

[vii] Chris Carey: "China Fire & Security Inc.", Share Sleuth, March 10, 2008, http://sharesleuth.com/investigations/2008/03/china-fire-security-group-inc/

Auditors: Agritech was downgraded last September by boutique investment bank Chardan Capital Market because of Agritech's retention of sub-standard auditing firms. China Agritech originally retained Kabani & Co., the Los Angeles-based accountancy that audited the notoriously fraudulent Bodisen Biotech, an organic fertilizer company that was delisted in 2007, and China Green Agriculture (CGA), a firm which we believe also falsely reports its results to U.S. investors. Agritech ended its relationship with Kabani in April 2008 and retained Crowe Horwath LLP. After being downgraded for not choosing a "Big Four" auditor, Agritech last autumn appointed Ernst & Young Hua Ming, which is the joint venture that Ernst & Young was required to form in the early 1990s in order to access the Chinese market. "Big Four" firm Ernst & Young is an equity owner, but E&Y Hua Ming is an independent company.

Currently, we believe E&Y Hua Ming is going through all past audits and talking openly with management about how to present the 2010 results appropriately. Unfortunately, neither "Big Four" auditors nor their Chinese joint ventures can protect investors from carefully calculated fraud.

Fundraising

China Agritech has been active in the market for capital since going public in 2005.

- In January 2006, the company raised $11 million in a private placement.[viii]
- In July 2007, the company raised $13 million in another private placement.[ix]

[viii] http://www.sec.gov/Archives/edgar/data/1166389/000120445906000024/chinaagretech8k.htm

- In October 2009, the company raised $14 million by issuing about 2.8 million new shares to Carlyle, through two of its Asia-based vehicles. Carlyle also received warrants, with additional warrants to be awarded in case CAGC missed certain growth targets. In late November, the company registered the Carlyle warrants for sale.
- In the June quarter of 2010, the company raised $31 million via a public offering and the exercise of the 2009 warrants.[x]

In total, the raises brought more than $70 million into China Agritech. However, fixed assets on the books of the company subsidiaries totaled only $2 million at the end of 2009. Although some investor relations companies associated with Chinese reverse mergers like to say that Chinese government audit reports are always wrong, the fact is that companies have no incentive to under-report their fixed assets. For one thing, depreciation decreases income taxes. For another, fixed assets are appraised by government agencies, are usually meticulously entered into the books, and are harder to fake than revenues. Finally, many benefits accrue to Chinese companies that register high levels of "registered capital," and fixed assets make it easier to raise the level of registered capital. Based on these facts plus our own inspection of Agritech plants, we have no reason to doubt that the company owns a mere $2 million in capital assets.

[ix] http://www.sec.gov/Archives/edgar/data/1166389/000114420407035613/v080413_8k.htm

[x] http://www.sec.gov/Archives/edgar/data/1166389/000114420410043954/v193268_10q.htm

The company's own reports to the SEC indicate that the book value of its fixed assets was $8.3 million at the end of the September quarter in 2010.

Rodman & Renshaw handled the public offering in April 2010 of 1.24 million shares of CAGC stock, raising almost $19 million. The money was intended for the buildout of distribution centers, Agritech said. But the company by summer 2010 had still not received production permits for granular fertilizer, while demand for liquid fertilizers was limited. We have not been able to identify any distribution centers that were built with the share proceeds.

Conclusion

Our careful examination of China Agritech's business indicates to us that along all parameters, Agritech has grossly inflated its revenue, failed to account for tens of millions of investor dollars, and now has virtually no product in the market. We believe this company should not be listed on NASDAQ. Fundamentally, CAGC is worth no more than the $2-per-share cash that is still in the company's accounts – if insiders don't empty it first.

Aronson Declaration Exhibit 5

Bronte Capital
It's a small world but I wouldn't want to paint it

Tuesday, February 15, 2011

China Agritech: China's amazing productivity levels

China Agritech has put out an eight page shareholder letter rebutting claims of short sellers. Readers know that in the past I have been inclined to take such letters under extreme caution.

But in this case I take the company statements as the gospel truth. They illustrate just how miraculous Chinese productivity levels are.

Firstly China Agritech claim all their production facilities are working normally and give a few addresses. (The addresses differ from the addresses in the 10K – a new complication.) They also give some photos. Here are the photos given of the Anhui facility.

Anhui Facility—Total Factory Area approx. 5,000 Square Meters

Anhui Facility Loading Area

The gate to the Anhui facility is the same one photographed by Lucas McGee – the shortseller who put out the scathing note on China Agritech. [There has been some difficulty finding that facility.]

These photos from China Agritech – combined with the annual report – allows us to illustrate amazing total factor productivity levels in China.

The annual report gives the company staff numbers:

> As of December 31, 2009, we had approximately 305 full-time employees, of which 45 were administrative and managerial staff; 150 were sales staff and 110 were manufacturing workers. We also hire temporary manufacturing workers to supplement our manufacture capabilities at periods of high demand.

The company has three dry fertilizer plants and a liquids plant. The Anhui plant however is half the total dry fertilizer – so at a guess it represents about

a third of the plant and equipment and a third of the staff. (This is just a good educated guess – but the analysis would apply to all the other plants as well.)

So let's suppose – just running these numbers – that say 37 staff work at the Anhui plant (that is a third of the manufacturing staff).

The Anhui plant – also according to the annual filing – produces 100 thousand (metric) tonnes of dry fertilizer per year. The bags in that photo are 40kg bags – so they produce 2.5 million bags per year – and they do all that with 37 staff.

The photograph – the elusive loading facility for which I searched – shows less than 100 bags – loosely – and I would guess manually – stacked on top of each other.

To move 2.5 million bags of fertilizer annually you would need an enormous army of manual workers whose muscles bulged like Popeye or machines. I presume you would use machines.

I am not a factory guy – but I presume fork-lifts would be pretty basic equipment. But if they used fork-lifts then the bags would be loaded onto pallets (again I am not a factory guy – but I am used to seeing pallets). Instead – and here is the photo again – they are stacked somewhat irregularly on the ground.

Anhui Facility Loading Area

These workers are amazingly strong. They move 2.5 million bags of fertilizer with nary a fork-lift.

Of course there could be some heavy moving kit outside the photo. So I went looking at the accounting for property plant and equipment. Here is an extract from the last annual:

7. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consist of the following:

	As of December 31,	
	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
Manufacturing machinery	5,849,894	4,735,761
[illegible]	[illegible]	[illegible]
Office equipment	223,298	220,031
[illegible]	[illegible]	[illegible]
	[illegible]	[illegible]
Less: Accumulated depreciation and amortization	[illegible]	[illegible]
Net book value	[illegible]	[illegible]

Depreciation and amortization expense for the years ended December 31, 2009 and 2008 was $695,703 and $548,571, respectively

Yes – that is 5.8 million of gross manufacturing equipment and 0.6 million of vehicles. A third of that equipment (my estimate) should be at Anhui.

So with just over $2 million worth of equipment the company claims to be able to manufacture and load

2.5 million bags of fertilizer per year. Oh, and they do without an enormous army of low-paid workers – but a mere thirty-something superheros.

America is forever stuffed. Westerners can never compete against this.

John

Disclosure: Bronte remains short China Agritech (indicating we do not think the above calculation should be taken very seriously except as an exploration of the accounts and claims of the company). "Anne" Wang Zheng – the Carlyle nominee China Agritech's board has still not got back to me. Perhaps she can shed more light on these amazing productivity levels.

Aronson Declaration Exhibit 27

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 68060 / October 17, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-15069

In the Matter of China Agritech, Inc.,
Respondent.

ORDER INSTITUTING PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTIONS 12(j) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, IMPOSING A CEASE-AND-DESIST ORDER, AND REVOKING REGISTRATION OF SECURITIES

I.

The Securities and Exchange Commission ("Commission") deems it necessary and appropriate for the protection of investors that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 12(j) and 21C of the Securities Exchange Act of 1934 ("Exchange Act") against China Agritech, Inc. ("China Agritech" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 12(j) and 21C of the Securities Exchange Act of 1934, Making Findings, Imposing a Cease-and-Desist Order, and Revoking Registration of Securities (the "Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

FACTS

A. China Agritech is a Delaware corporation with headquarters in Beijing, China. China Agritech's filings with the Commission reported that China Agritech has operations in several locations in China, from which it manufactures and distributes organic fertilizers for sale throughout China. In September 2009, China Agritech registered its securities under Section 12(b) of the Exchange Act and listed on the NASDAQ Global Select Market ("NASDAQ"). On July 13, 2011, NASDAQ filed a Form 25 with the Commission removing China Agritech's securities

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

from listing on NASDAQ and from registration under Section 12(b) of the Exchange Act. Since effectiveness of the deregistration from Section 12(b) of the Exchange Act, China Agritech's securities have been registered under Section 12(g) of the Exchange Act and quoted on OTC Pink under the symbol "CAGC."

B. China Agritech last filed a periodic report on November 10, 2010, when it filed a quarterly report on Form 10-Q for the quarter ended September 30, 2010. Since that time, China Agritech has failed to file annual reports on Form 10-K for the fiscal years ended December 31, 2010 and December 31, 2011, and has failed to file quarterly reports on Form 10-Q for the quarters ended March 31, 2011; June 30, 2011; September 30, 2011; March 31, 2012; and June 30, 2012.

C. On March 16, 2011, China Agritech filed a Form NT 10-K as required under Exchange Act Rule 12b-25, formally notifying the Commission that its 2010 Form 10-K would be delayed "due to a delay in obtaining and compiling information required to be included in the Company's Form 10-K." China Agritech has failed to file Forms NT 10-K or NT 10-Q for its delinquent annual report on Form 10-K for the fiscal year ended December 31, 2011 and its quarterly reports on Form 10-Q for the quarters ended March 31, 2011; June 30, 2011; September 30, 2011; March 31, 2012; and June 30, 2012, or provided the reasons for those delinquencies.

D. China Agritech belatedly disclosed in a Form 8-K filed on June 14, 2012, that one of the independent members of its Board of Directors had resigned effective January 25, 2012 and that two other independent directors had resigned effective March 15, 2012.

VIOLATIONS

E. As a result of the conduct described in paragraphs A and B, above, China Agritech has failed to comply with, and committed violations of, Section 13(a) of the Exchange Act and Rules 13a-1, and 13a-13 thereunder, which require issuers of securities registered pursuant to Section 12 of the Exchange Act to file with the Commission current financial information in annual and quarterly reports.

F. As a result of the conduct described in paragraph C, above, China Agritech has also failed to comply with, and committed violations of, Section 13(a) of the Exchange Act and Rule 12b-25 thereunder, which require any reporting issuer that will be unable to meet the filing deadline for a required periodic report to file, within one business day of the missed deadline, a formal notification declaring its inability to file and the reasons therefor in reasonable detail.

G. Finally, as a result of the conduct described in paragraph D, above, China Agritech has failed to comply with, and committed violations of, Section 13(a) of the Exchange Act and Rule 13a-11 thereunder, which require every reporting issuer to file current reports disclosing certain events within the time period specified on Form 8-K; Item 5.02(b) of Form 8-K requires registrants to report the fact that a director has resigned and the date of the resignation within four business days of the occurrence of the event.

IV.

Section 21C(a) of the Exchange Act provides as follows:

> If the Commission finds, after notice and opportunity for hearing, that any person is

> violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation.

Section 12(j) of the Exchange Act provides as follows:

> The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means of instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security the registration of which has been and is suspended or revoked pursuant to the preceding sentence.

In view of the foregoing, the Commission finds that it is necessary and appropriate for the protection of investors to impose the sanction specified in Respondent's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that Respondent cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Rules 12b-25, 13a-1, 13a-11, and 13a-13 thereunder.

IT IS FURTHER ORDERED, pursuant to Section 12(j) of the Exchange Act, that registration of each class of Respondent's securities registered pursuant to Section 12 of the Exchange Act be, and hereby is, revoked.

By the Commission.

Elizabeth M. Murphy
Secretary

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

No. 2:14-CV-05083-RGK (PJWx)

MICHAEL H. RESH, ET AL.,
Plaintiff,

v.

CHINA AGRITECH, INC., ET AL.,
Defendants.

[Filed Oct. 17, 2014]

[PROPOSED] ORDER GRANTING MOVANT CAGC INVESTOR GROUP'S MOTION FOR APPOINTMENT AS LEAD PLAINTIFF AND APPROVING ITS SELECTION OF LEAD COUNSEL [DENIED]

The CAGC Investor Group, comprised of investors in defendant China Agritech, Inc. ("China Agritech") William Schoenke, Heroca Holding B.V., and Ninella Beheer B.V., has moved this Court for appointment as Lead Plaintiff and for approval of its selection of counsel as Co-Lead Counsel for the proposed class. This Court, having considered the provisions of Section 21D(a)(3)(B) of the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. § 78u-4(a)(3)(B), the Motion of the CAGC Investor Group for Appointment as Lead Plaintiff and for Approval of Selection of Counsel, the Memorandum of Points and Authorities and the Declaration of Betsy C. Manifold, with exhibits, submitted in support thereof,

as well as any opposition and reply papers, hereby orders as follows:

Pursuant to Section 21D(a)(3)(B) of the PSLRA, the CAGC Investor Group is the "most adequate plaintiff" and otherwise satisfies the requirements of § 21D of the PSLRA. The PSLRA specifically provides, *inter alia*, that the most-adequate plaintiff to serve as lead plaintiff is the person or group of persons to: (1) timely file a motion in response to a notice; (2) have the largest financial interest in the relief sought by the proposed class; and (3) make a *prima facie* showing which satisfies the pertinent requirements of Rule 23 of the Federal Rules of Civil Procedure. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I).

Here, the CAGC Investor Group timely filed its motion on September 3, 2014, sixty days after the notice of pendency of action was published on July 5, 2014. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i). In addition, the CAGC Investor Group has calculated its losses under the guidelines of the United States Supreme Court's decision in *Dura Pharms., Inc. v. Broudo*, 544 U.S. 336 (2005) by disregarding transactions that are opened and closed that do not straddle a corrective disclosure and the losses resulting from any such transactions. *Id.* at 342-43. *See also Brown v. China Integrated Energy, Inc.*, No. 11-02559, 2011 U.S. Dist. LEXIS 151131, at *41-42 (C.D. Cal. Aug. 29, 2011); *Schueneman v. Arena Pharms., Inc.*, No. 10-1959, 2011 U.S. Dist. LEXIS 87373, at *13 (S.D. Cal. Aug. 8, 2011). Based on these calculations, the CAGC Investor Group has the largest financial interest in this litigation. In addition, the Court finds appointment of this small cohesive group of investors, of which the principles of the entities are business partners unrelated to this litigation, appropriate under Ninth Circuit law. *See, e.g., Petrie v. Elec.*

Game Card, Inc., No. 10-0252, 2010 U.S. Dist. LEXIS 56283, at *7 (C.D. Cal. June 4, 2010) (allowing a group of three investors to aggregate their losses); *Leevan v. Credit Suisse Int'l*, No. 13-2783, 2013 U.S. Dist. LEXIS 172414, at *11 (N.D. Cal. Dec. 5, 2013) (appointing a group of three investors); *In re Versata Inc. Sec. Litig.*, No. 01-1439, 2001 U.S. Dist. LEXIS 24270, at *22 (N.D. Cal. Aug. 17, 2001) (appointing a group of three unrelated investors and noting that "under appropriate circumstances small groups, whether or not they have any pre-litigation relationship, can aggregate their financial losses.").

The Court additionally finds that the CAGC Investor Group has satisfied each of the other requirements of the PSLRA by providing the requisite signed certifications of each member of the group under oath with regard to their transactions and responsibilities, and making the required *prima facie* showing that they are adequate and typical members of the proposed class. *See* 15 U.S.C. § 78u-4(a)(2)(A)(i-vi) and 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(cc). *See also In re Cavanaugh*, 306 F.3d 726, 730 (9th Cir. 2002); *Hannon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992).

Here, like all proposed class members, the CAGC Investor Group allegedly suffered damages from purchases of China Agritech stock during the relevant time period while Defendants made false and misleading representations concerning the Company in violation of Sections 10(b) and 20(a) of the Exchange Act, and Rule 10b-5 promulgated thereunder, such that the CAGC Investor Group's interests are aligned with those of the members of the proposed class, and there is no evidence of any antagonism between the two. As such, the CAGC Investor Group's claims are typical of the claims of the Class within the meaning

of Rule 23(a)(3), and they will fairly and adequately represent the interests of the Class under Rule 23(a)(4). *See Yanek v. Staar Surgical Co.*, No. 04-8007, 2004 U.S. Dist. LEXIS 30953, at *15, *16, *20 (C.D. Cal. Dec. 15, 2004).

Therefore, the Court hereby grants the CAGC Investor Group's Motion and appoints it to be Lead Plaintiff in this action and to represent the interests of the proposed class.

Pursuant to Section 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), the Lead Plaintiff has selected and retained the law firms of Wolf Haldenstein Adler Freeman & Herz LLP and Brower Piven, A Professional Corporation to serve as Co-Lead Counsel. The Court therefore approves the CAGC Investor Group's selection of Co-Lead Counsel.

Co-Lead Counsel shall have the following responsibilities and duties, to be carried out personally:

a. to coordinate the briefing and argument of any and all motions;

b. to coordinate the conduct of any and all discovery proceedings;

c. to coordinate the examination of any and all witnesses in depositions;

d. to coordinate the selection of counsel to act as spokesperson at all pretrial conferences;

e. to call meetings of the plaintiffs' counsel as they deem necessary and appropriate from time to time;

f. to coordinate all settlement negotiations with counsel for defendants;

g. to coordinate and direct the pretrial discovery proceedings and the preparation for trial and the trial of this matter and to delegate work

responsibilities to selected counsel as may be required;

h. to coordinate the preparation and filings of all pleadings; and

i. to supervise all other matters concerning the prosecution or resolution of the action.

No motion, discovery request or other pretrial proceedings shall be initiated or filed by any plaintiffs without the approval of Co-Lead Counsel, so as to prevent duplicative pleadings or discovery by plaintiffs. No settlement negotiations shall be conducted without the approval of Co-Lead Counsel.

Co-Lead Counsel shall have the responsibility of receiving and disseminating Court orders and notices.

Co-Lead Counsel shall be the contact between plaintiffs' counsel and defendants' counsel, as well as the spokesperson for all plaintiffs' counsel, and shall direct and coordinate the activities of plaintiffs' counsel.

Lead Plaintiff shall effectuate service of papers on defendants by serving copies on each of their counsel by overnight delivery service, electronic mail or hand delivery.

Each attorney not a member of the Bar of this Court who is acting as counsel for a plaintiff or defendant herein shall be deemed admitted pro hac vice to practice before this Court in connection with these proceedings.

Lead Plaintiff shall file an amended complaint no later than 30 days from the date of the entry of this Order, unless otherwise agreed between the parties or ordered by the Court. All defendants shall have 30 days after the filing and service of the amended complaint to answer or otherwise respond, unless

otherwise agreed to between the parties and approved by the Court.

IT IS SO ORDERED.

DATED: OCT 17, 2014

[Handwritten:] Denied without prejudice to be determined at the time of certification

/s/ GARY KLAUSNER

HONORABLE R. GARY KLAUSNER
UNITED STATES DISTRICT COURT JUDGE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Date	January 7, 2015
Case No.	CV 14-05083 RGK (PJWx)
Title	***RESH, et al. v. CHINA AGRITECH, INC., et al.***

Present: The Honorable R. GARY KLAUSNER, U.S. DISTRICT JUDGE

Sharon L. Williams (Not Present)
Deputy Clerk

Not Reported
Court Reporter / Recorder

N/A
Tape No.

Attorneys Present for Plaintiffs:
Not Present

Attorneys Present for Defendants:
Not Present

Proceedings: (IN CHAMBERS) Order Re: Dismissal Order as to Plaintiffs' Claims Against Remaining Defendants

On September 4, 2014, Michael H. Resh ("Resh"), William Schoenke, Heroca Holding B.V., and Ninella Beheer B.V. (collectively, "Plaintiffs") filed an Amended Class Action Complaint ("FAC") against China Agritech, Inc. ("China AG"), Charles Law ("Law"), and the following other defendants: (1) Yu Chang, (2) Yau-Sing Tang, (3) Gene Michael Bennett, (4) Xiao Rong Teng, (5) Ming Fang Zhu, (6) Lun Zhang Dai, (7) Hai Lin Zhang, and (8) Zheng Anne Wang (collectively, the "Remaining Defendants").

On December 1, 2014, the Court granted motions to dismiss filed by China AG and Law pursuant to Federal Rule of Civil Procedure 12(b)(6), finding that Plaintiffs' class action claims were barred by the statute of limitations. The Court ordered Plaintiffs to show cause as to why the Remaining Defendants should not also be dismissed from this action. On December 8, 2014, Plaintiffs filed a response to the Order.

Plaintiffs fail to provide an adequate reason why, in light of the Court's December 1, 2014 order, the claims against the Remaining Defendants should not also be dismissed. Therefore, the Court DISMISSES the Remaining Defendants.

Plaintiffs are not prevented from filing a complaint asserting individual, rather than class action, claims against China AG, Law, and the Remaining Defendants if they so choose.

IT IS SO ORDERED.

_____ : _____

Initials of Preparer

_____